

81ST CONGRESS
1ST SESSION

H. R. 1570

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1949

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To authorize the appropriation of funds to assist in reducing the inequalities of educational opportunities through elementary and secondary schools, for the national security and general welfare, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Educational Finance
4 Act of 1949".

5 The Congress of the United States recognizes that well-
6 educated and healthy citizens are indispensable to the na-
7 tional security and the general welfare; that, in order to
8 safeguard the national security and promote the general
9 welfare through a well-educated and healthy citizenry, it

1 is vital that the Nation devote special consideration to the
2 children in elementary and secondary schools; that the par-
3 ents have a priority of right in the matter of the education
4 of their children; to assist the parents in the exercise of this
5 right, and to promote the stability of the State, the several
6 States have established standards to which all schools must
7 conform; that there is presently a crisis in the area of educa-
8 tion in the elementary and secondary schools which prevents
9 the proper discharge of the duties imposed upon parents
10 and the States in this vital area. In furtherance of the pur-
11 poses herein set forth it is declared to be the policy of the
12 United States that parents shall be assisted, to the extent
13 provided in this Act, in order that children of elementary
14 and secondary school age may receive an adequate educa-
15 tion and the necessary health care.

16 SEC. 2. Nothing contained in this Act shall be con-
17 strued to authorize any department, agency, officer, or
18 employee of the United States to exercise any direction,
19 supervision, or control over, or to prescribe any require-
20 ments with respect to any school, or any State educational
21 institution or agency, with respect to which any funds have
22 been or may be made available or expended pursuant to
23 this Act, nor shall any term or condition of any agreement or
24 any other action taken under this Act, whether by agreement
25 or otherwise, relating to any contribution made under this

1 Act to or on behalf of any school, or any State educational
2 institution or agency, or any limitation or provision in any
3 appropriation made pursuant to this Act, seek to control
4 in any manner, or prescribe requirements with respect to,
5 or authorize any department, agency, officer, or employee of
6 the United States to direct, supervise, or control in any man-
7 ner, or prescribe any requirements with respect to, the
8 administration, the personnel, the curriculum, the instruction,
9 the methods of instruction, or the materials of instruction,
10 nor shall any provision of this Act be interpreted or construed
11 to imply or require any change in any State constitution
12 prerequisite to any State sharing the benefits of this Act.

13

APPROPRIATIONS AUTHORIZED

14 SEC. 3. For the purpose of more nearly equalizing public
15 elementary and secondary school opportunities among and
16 within the States, and for the purpose of safeguarding the
17 health and well-being of the Nation's children, there is
18 hereby authorized to be appropriated without any limitation
19 of such appropriation or condition inconsistent with or con-
20 trary to the terms or purposes of this Act for the fiscal
21 year ending June 30, 1950, and for each fiscal year there-
22 after the sum of \$325,000,000 to be distributed among the
23 States as hereinafter provided.

24

APPORTIONMENT

25 SEC. 4. Ninety-eight per centum of the funds appro-

1 priated under this Act for each fiscal year shall be dis-
2 tributed among the States, excluding those enumerated in
3 paragraph (G) of this section, in the following manner:

4 (A) Mutiply (a) the number of children from five
5 to seventeen years of age, inclusive, in each State, as de-
6 termined by the Department of Commerce, for the third
7 calendar year next preceding the year in which ends the
8 fiscal year for which the computation is made by (b) \$45.

9 (B) Multiply (a) the average of the annual income
10 payments for each State, as determined by the Department
11 of Commerce, for the third, fourth, fifth, sixth, and seventh
12 calendar years next preceding the year in which ends the
13 fiscal year for which the computation is made by (b) .1
14 per centum.

15 (C) Subject to the succeeding provisions of this sec-
16 tion, the amount of the Federal allotment for any State shall
17 be (a) the amount, if any, by which the amount calculated
18 under paragraph (A) exceeds the amount calculated under
19 paragraph (B) with respect to such State, or (b) \$5
20 multiplied by the number of children in such State from
21 five to seventeen years of age, inclusive, as determined under
22 paragraph (A), whichever is greater.

23 (D) Determine the percentage ratio of (a) the amount
24 spent in such State from revenues derived from State or
25 local sources for current expenditures for elementary school

1 and secondary school education for the third fiscal year next
2 preceding the fiscal year for which the computation is made,
3 to (b) the average of the annual income payments for each
4 State, as determined under paragraph (B) of this section.
5 When the percentage ratio thus determined for any State is
6 less than 2.5 the amount of the Federal allotment to such
7 State, as computed under paragraph (C), shall be propor-
8 tionally reduced; except that in no case shall the amount of
9 the Federal allotment for any State be less than \$5 multi-
10 plied by the number of children in such State from five to
11 seventeen years of age, inclusive, as determined under para-
12 graph (A).

13 (E) Determine the percentage ratio of (a) current ex-
14 penditures to each State from revenues derived from State or
15 local sources for elementary school and secondary school edu-
16 cation for the year for which the computation is made, as
17 estimated on the basis of reports submitted by the State for
18 such purpose, to (b) the average of the annual income pay-
19 ments for each State, as determined by the Department of
20 Commerce, for the three most recent calendar years for which
21 annual income data are available. When for any fiscal year
22 beginning after June 30, 1953, the percentage ratio thus
23 determined for any State is less than 2.0, such State shall be
24 ineligible to receive any part of the funds appropriated pur-
25 suant to section 3 of this Act for such fiscal year, unless the

1 estimated current expenditures under clause (a) of this para-
2 graph is an amount equal to or greater than \$120 multiplied
3 by the number of pupils in average daily attendance for
4 such fiscal year as determined on the basis of reports sub-
5 mitted by the State for such purpose. Any State thus deter-
6 mined to be ineligible shall remain ineligible until such time
7 as revised estimates, determined as provided under this para-
8 graph, produce a percentage ratio equal to or greater than
9 2.0, or an amount equal to or greater than \$120.

10 (F) In the event 98 per centum of the funds appro-
11 priated for any fiscal year pursuant to section 3 of this Act
12 is insufficient to pay to all eligible States the amount of the
13 Federal allotment to each such State, computed in accordance
14 with the foregoing provisions of this section, the amount to
15 be paid to each eligible State shall bear the same ratio to the
16 amount of the Federal allotment to each such State as 98
17 per centum of such appropriation bears to the sum of the
18 Federal allotments to all eligible States.

19 (G) From 2 per centum of the funds appropriated pur-
20 suant to section 3 of this Act, such sums as may be necessary
21 shall be apportioned by the Commissioner to Alaska, Hawaii,
22 the Canal Zone, Puerto Rico, American Samoa, the Virgin
23 Islands, and Guam according to their respective needs for
24 additional funds for public elementary and public secondary

1 schools upon the basis of joint agreements made with their
2 respective State educational authorities.

3 CERTIFICATION AND PAYMENT

4 SEC. 5. The United States Commissioner of Education
5 shall certify for each fiscal year the amounts to be paid under
6 this Act to each State that has qualified under section 8 of
7 this Act to the Secretary of the Treasury, who shall, through
8 the Fiscal Service of the Treasury Department and prior to
9 audit or settlement by the General Accounting Office, pay
10 to the treasurer or corresponding official of such State the
11 amount certified for such fiscal year in four equal installments,
12 as soon after the first day of each quarter as may be feasible,
13 beginning with the first quarter of the fiscal year for which
14 appropriations made under the authorization of this Act are
15 available. Such treasurer or corresponding official shall pay
16 out the funds he receives only on the requisition of the State
17 educational authority.

18 SEC. 6. (A) At least 10 per centum of the funds au-
19 thorized under section 3 of this Act shall be available for
20 expenditure by the State education agency, for the providing
21 of auxiliary services; that is, necessary transportation of
22 pupils, nonreligious textbooks, child health examinations,
23 and related child health services, provided such health
24 examinations and related health services are furnished on
25 the school premises or appurtenant thereto.

1 (B) The balance of the funds authorized under section
2 3 of this Act shall be available for expenditure by State and
3 local public school jurisdiction, or other State public educa-
4 tion agencies for teachers' salaries and current expenditure
5 (excluding interest, debt service, capital outlay, and auxiliary
6 services as set forth in subsection (A) hereof).

7 (C) No provision of this Act shall be construed to
8 delimit a State in its definition of a program of public
9 education.

10 SEC. 7. If, in any State, the treasurer or corresponding
11 official of such State is not permitted by law to disburse to
12 nonpublic schools any of the funds referred to in section
13 6 (A), the Commissioner of Education shall withhold from
14 such funds the same proportion of the funds as the number
15 of children in average daily attendance at nonpublic schools
16 within the State is of the total number of children in average
17 daily attendance in the schools of said State.

18 The Commissioner shall disburse the funds so withheld
19 directly to the nonpublic schools within such State for the
20 same purposes and subject to the same conditions as are
21 authorized or required with respect to the disbursements to
22 schools within the State by the State educational agency:
23 *Provided*, That the State educational agency shall first have
24 approved the educational standards of each nonpublic school
25 applying for such funds.

1 STATE ACCEPTANCE PROVISIONS

2 SEC. 8. (A) In order to qualify for receiving funds
3 appropriated under this Act a State—

4 (1) through its legislature, shall (a) accept the
5 provisions of this Act and provide for the administra-
6 tion of funds to be received; (b) provide that the State
7 treasurer or corresponding official in the State shall re-
8 ceive the funds paid to that State under this Act and
9 shall be required to submit to the United States Com-
10 missioner of Education, on or before the 1st day of
11 November of each year, for transmission to the Con-
12 gress, a detailed statement of the amount so received
13 for the preceding fiscal year and of its disbursement;
14 (c) provide that its State educational authority shall
15 represent the State in the administration of funds re-
16 ceived; (d) provide for an annual audit, and for the
17 submission of a copy thereof to the Commissioner, of
18 the expenditure of funds received under this Act, and
19 for a system of reports from local public school jurisdic-
20 tions and other State public education agencies to the
21 State educational authority; (e) provide that the State
22 educational authority shall make reports to the Commis-
23 sioner with respect to the progress of education, on
24 forms to be provided by the Commissioner, which reports
25 the Commissioner shall transmit to the Congress with

1 recommendations for such revisions of this Act as in his
2 judgment the Congress should consider, with particular
3 reference to recommendations arising from changing
4 conditions in our national economy; (f) in States where
5 separate public schools are maintained for minority races,
6 provide for a just and equitable apportionment of such
7 funds to public schools maintained for minority races
8 without reduction of the proportion of revenues, derived
9 from State or local sources, expended for educational
10 purposes during the fiscal year ended in 1949 for pub-
11 lic elementary school and public secondary school edu-
12 cation of minority races: *Provided*, That, until the end
13 of the fiscal year in which occurs the adjournment
14 of the first regular session of the legislature of any State,
15 which convenes after the enactment of this Act, or
16 until such legislature takes the action required under
17 this section to qualify for receiving funds, whichever
18 first occurs, such State shall be deemed to qualify for
19 receiving such funds if the chief executive of such State
20 takes the action required under this section to so qualify;

21 (2) through its legislature, shall provide that the
22 State educational authority shall formulate and effec-
23 uate, for each fiscal year beginning after June 30, 1952,
24 a plan for the apportionment of amounts paid to such
25 State from funds appropriated pursuant to this Act for

1 such fiscal year under which (a) there will be avail-
2 able from all sources to each local public school juris-
3 diction or other State public education agency, for cur-
4 rent expenditures for public elementary school and
5 public secondary school education an amount per pupil
6 in average daily attendance at public elementary and
7 secondary schools within such local public school juris-
8 diction, or under the jurisdiction of such State public
9 education agency, not less than \$50 or, in any fiscal
10 year for which the amount to be paid to a State is less
11 by reason of the provisions of paragraph (F) of section
12 4 than the amount of the Federal allotment to such
13 State, an amount which bears the same ratio to \$50
14 as 98 per centum of the funds appropriated for such fiscal
15 year pursuant to this Act bears to the sum of all Fed-
16 eral allotments under section 4; and (b) in States
17 where separate schools are maintained for minority
18 races, there will be available from all sources to each
19 local public school jurisdiction or other State public
20 education agency for current expenditures for the
21 schools maintained within such local public school juris-
22 diction, or under the jurisdiction of other State public
23 education agency, for such races an amount per pupil
24 in average daily attendance in such schools not less
25 than the amount per pupil required under clause (a).

1 to be made available with respect to all schools within
2 such local public school jurisdiction or under the juris-
3 diction of such other State public education agency;

4 (3) shall transmit through its State educational
5 authority to the United States Commissioner of Edu-
6 cation notice of acceptance and certified copies of the
7 legislative enactments and revisions of regulations shall
8 in like manner be transmitted to said Commissioner.

9 SEC. 9. (A) The funds appropriated pursuant to this
10 Act shall be paid only to those States, or to nonpublic
11 schools as provided in section 7, which, during the preced-
12 ing fiscal year, have provided from State sources, or in the
13 case of nonpublic schools from sources within the State,
14 for the purposes specified herein, an amount equivalent to
15 at least one of the following:

16 (1) The total amount actually spent for such pur-
17 poses from such sources in the fiscal year ended in
18 1949; or

19 (2) The amount per pupil in average daily at-
20 tendance actually spent for such purposes from such
21 sources in the fiscal year ended in 1949.

22 (B) Any nonpublic school receiving funds authorized
23 by this Act shall provide for an annual audit of the expend-
24 iture of funds received under this Act, and shall file a copy

1 thereof with the Commissioner and the State educational
2 agency.

3 RIGHT OF APPEAL

4 SEC. 10. In the event a State educational authority is
5 dissatisfied with any action by the United States Com-
6 missioner of Education taken with respect to such State pur-
7 suant to this Act, or with his failure to take any action with
8 respect to such State pursuant to this Act, such authority
9 shall have a right to appeal to the Commissioner to change
10 the action he has taken or to take the action he has failed
11 to take, and to present to him in support of such appeal
12 such statements and other evidence as such authority may
13 deem appropriate. If the action taken by the Commissioner
14 on such appeal is not satisfactory to the State educational
15 authority or if he fails to act thereon within ninety days
16 after he receives such appeal, such authority shall have a
17 right to appeal to the United States district court for any
18 district in which any part of such State is located. The
19 court shall receive in evidence a copy of the statements
20 and other evidence presented by the State educational au-
21 thority to the Commissioner, and such further evidence
22 as the court in its discretion deems proper; and shall have
23 jurisdiction to enter such judgment as the facts and the law
24 may require.

DEFINITIONS

SEC. 11. As used in this Act—

(A) The term “State” shall include the several States, the District of Columbia, Alaska, and Hawaii, Puerto Rico, the Canal Zone, American Samoa, the Virgin Islands, and Guam.

(B) The term “legislature” means the State or Territorial legislature or other comparable body, except that in the District of Columbia it shall mean the Board of Education, and in American Samoa and the Virgin Islands it shall mean the Governor.

(C) The term “minority race” shall mean any race or racial group that constitutes a minority of the population of the continental United States.

(D) A just and equitable apportionment of the funds provided under this Act for the benefit of public schools maintained for minority races in a State which maintains by law separate public schools for minority races, means any plan of distribution which results in the expenditure, for the benefit of such minority race of a proportion of said funds not less than the proportion that such minority race in such State bears to the total population of that State.

(E) The term “State educational authority” means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public in-

1 struction, commissioner of education, or similar officer), or
2 (2) a board of education controlling the State department
3 of education; except that in the District of Columbia it shall
4 mean the Board of Education, and in American Samoa,
5 Guam, and the Virgin Islands, it shall mean the Governor.

6 (F) The term "nonpublic school" means those schools
7 not established or maintained for the financial benefit of any
8 individual or corporation, and which, while performing the
9 public function of educating children in accordance with the
10 State educational requirements, are not administered by pub-
11 lic authorities.